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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/652,780	08/29/2003	Rhonda Sue Johnson	00775-0148US	3427
32116	7590	10/20/2004	EXAMINER	
WOOD, PHILLIPS, KATZ, CLARK & MORTIMER 500 W. MADISON STREET SUITE 3800 CHICAGO, IL 60661			PICKETT, JOHN G	
			ART UNIT	PAPER NUMBER
			3728	

DATE MAILED: 10/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/652,780

Applicant(s)

JOHNSON, RHONDA SUE

Examiner

Gregory Pickett

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 August 2003.
2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-24 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 22 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
1. Claims 1, 2, 4-6, 9-14, 16, 17, 19, 21, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over McDonald (US 2004/0074936 A1) in view of Weimer (US 2003/0168371 A1).

Regarding claims 1, 4, 9-14, and 21, McDonald discloses a soft-sided cooler **10** with an insulated, pliable body **14** having an access opening **16**, an insulated, pliable top panel **18** to close access opening **16**, and a quick access structure including an opening **30** and an insulated, pliable flap **26**.

McDonald lacks, or does not expressly disclose a decorative figure on the top panel with the flap defining a portion of the decorative figure.

Weimer discloses a cooler with a decorative figure on its cover (Figures 1-6) and a secondary closure **26** that defines a portion of the decorative figure. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the cooler of McDonald with a decorative figure in order to provide the consumer with a theme to promote sales.

As to claims 2, 19 and 22, Weimer discloses a secondary closure **26** that is shaped to resemble at least a part of the decorative figure.

As to claims 5 and 16, McDonald discloses a zipper 24.

As to claims 6 and 17, Weimer discloses a decorative figure in the form of a car with the secondary closure portion in the shape of the hood.

2. Claims 3, 7, 15, 18, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over McDonald-Weimer as applied to claims 1, 6, 9, 17, and 21 above, and further in view of Hodge (US 5,842,900).

McDonald-Weimer discloses the claimed invention except for the express teaching of incorporating tab **36** of McDonald into the design.

Hodge teaches incorporating an opening tab into the decorative figure (see Col. 4, lines 36-41). It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the tab of McDonald into the decorative figure in order to enable both form and function within the same structure.

3. Claims 8, 20, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over McDonald-Weimer as applied to claims 1, 9, and 21 above, and further in view of Dege et al (US 6,688,470).

McDonald-Weimer discloses the claimed invention except for the storage compartment carried on the interior of the top panel.

Dege et al discloses the provision of a storage compartment 48 carried on the interior of the top panel 44. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the cooler of McDonald-Weimer with a storage compartment as taught by Dege et al in order to enable segregation of retained articles.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Butler discloses a soft-sided cooler with a quick access structure. Bowers and Au disclose decorative figures on containers with portions of the figures opening.

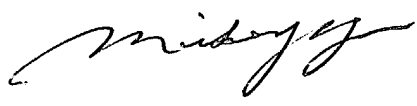
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory Pickett whose telephone number is 703-305-8321. The examiner can normally be reached on Mon-Fri, 9:30 AM - 6:00 PM.

Art Unit: 3728

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 703-308-2672. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Greg Pickett
Examiner
15 October 2004


Mickey Yu
Supervisory Patent Examiner
Group 3700